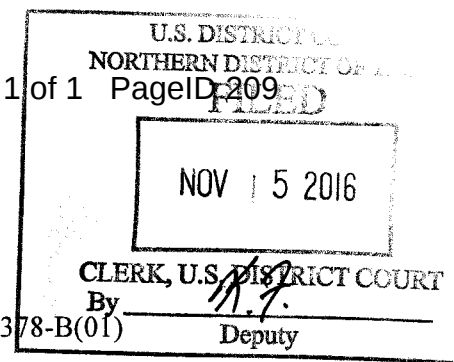


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



UNITED STATES OF AMERICA

v.

JAVIER MARTINEZ

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CASE NO.: 3:16-CR-378-B(01)

**REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY**

JAVIER MARTINEZ, by consent, under authority of *United States v. Dees*, 125 F.3d 261 (5th Cir. 1997), has appeared before me pursuant to Fed. R. Crim.P. 11, and has entered a plea of guilty to Counts 1, 4, 5, 9, and 10 of the 11-count Indictment filed August 16, 2016. After cautioning and examining JAVIER MARTINEZ under oath concerning each of the subjects mentioned in Rule 11, I determined that the guilty plea was knowledgeable and voluntary and that the offenses charged are supported by an independent basis in fact containing each of the essential elements of such offense. I therefore recommend that the plea of guilty be accepted, and that JAVIER MARTINEZ be adjudged guilty of **Conspiracy to Commit Kidnapping and Aiding and Abetting, in violation of 18 U.S.C. § 1201(c)(18 U.S.C. § 1201(a)(1)) and 18 U.S.C. § 2; Possession with Intent to Distribute Cocaine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C); Possession with Intent to Distribute Heroin, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C); Using, Carrying, and Brandishing a Firearm During or in Relation to a Crime of Violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii); and Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A)** and have sentence imposed accordingly. After being found guilty of the offense by the district judge,

- ☒ The defendant is currently in custody and should be ordered to remain in custody.
- ☐ The defendant must be ordered detained pursuant to 18 U.S.C. § 3143(a)(1) unless the Court finds by clear and convincing evidence that the defendant is not likely to flee or pose a danger to any other person or the community if released.
- ☐ The Government does not oppose release.
- ☐ The defendant has been compliant with the current conditions of release.
- ☐ I find by clear and convincing evidence that the defendant is not likely to flee or pose a danger to any other person or the community if released and should therefore be released under § 3142(b) or (c).
- ☐ The Government opposes release.
- ☐ The defendant has not been compliant with the conditions of release.
- ☐ If the Court accepts this recommendation, this matter should be set for hearing upon motion of the Government.
- ☐ The defendant must be ordered detained pursuant to 18 U.S.C. § 3143(a)(2) unless (1)(a) the Court finds there is a substantial likelihood that a motion for acquittal or new trial will be granted, or (b) the Government has recommended that no sentence of imprisonment be imposed, or (c) exceptional circumstances are clearly shown under § 3145(c) why the defendant should not be detained, and (2) the Court finds by clear and convincing evidence that the defendant is not likely to flee or pose a danger to any other person or the community if released.

Date: November 15, 2016

DAVID L. HORAN

UNITED STATES MAGISTRATE JUDGE

NOTICE

Failure to file written objections to this Report and Recommendation within fourteen (14) days from the date of its service shall bar an aggrieved party from attacking such Report and Recommendation before the assigned United States District Judge. 28 U.S.C. §636(b)(1)(B).